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DEPARTMENT OF COMMERCE
International Trade Administration

A-570-979

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Initiation of Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the "Department") received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules ("solar cells") from the People's Republic of China ("PRC"). Based on a request from Neo Solar Power Corporation ("Neo Solar"), DelSolar Co., Ltd. ("DelSolar Taiwan"), and DelSolar (Wujiang) Ltd. ("DelSolar Wujiang"), the Department intends to determine, for purposes of the antidumping duty order on solar cells from the PRC, whether Neo Solar is the successor-in-interest to DelSolar Taiwan, an exporter assigned an exporter-producer rate in the investigation in this proceeding.

DATES: Effective (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Erin Kearney or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0167 or (202) 482-5193, respectively.

SUPPLEMENTARY INFORMATION

Background

On December 7, 2012, the Department published a notice of the *Order* in the solar cells proceeding in the *Federal Register*.¹ On February 4, 2015, NeoSolar, DelSolar Taiwan, and DelSolar Wujiang requested that the Department conduct an expedited changed circumstances review pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (“the Act”), and section 351.216(b) of the Department’s regulations, to determine that Neo Solar is the successor-in-interest to DelSolar Taiwan for purposes of the *Order*. In their request, Neo Solar, DelSolar Taiwan, and DelSolar Wujiang provided lists of shareholders, managers, and boards of directors of Neo Solar and DelSolar Taiwan, business licenses of DelSolar Taiwan and DelSolar Wujiang, and a merger agreement and press release describing the merger of Neo Solar and DelSolar Taiwan.

On March 6, 2015, SolarWorld Americas, Inc. (“SolarWorld”), the petitioner in the underlying investigation, submitted comments on the changed circumstances review request. SolarWorld stated that the Department should reject the request for a changed circumstances review because Neo Solar failed to establish that it is eligible for a separate rate and that it operates as the same business entity as DelSolar Taiwan. SolarWorld stated that if the Department initiates a changed circumstances review with respect to Neo Solar, the Department should require Neo Solar to provide additional information about its company operations before making a preliminary successor-in-interest determination.

Scope of the Order

¹ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012) (“*Order*”)

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This order covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in the PRC are covered by this order; however, modules, laminates, and panels produced in the PRC from cells produced in a third-country are not covered by this order.

Merchandise covered by this order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act, the Department will conduct a changed circumstances review upon receipt of a request from an interested party which shows changed circumstances sufficient to warrant a review of an order. In accordance with section 751(b) of the Act and 19 CFR 351.216(d), the Department determines that the information submitted by Neo Solar, DelSolar Taiwan, and DelSolar Wujiang constitutes sufficient evidence to conduct a changed circumstances review of the *Order*.²

In a changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.³ While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are

² See also 19 CFR 351.221.

³ See, e.g., *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results and Termination, in Part, of the Antidumping Duty Changed Circumstances Review*, 76 FR 64898 (October 19, 2011); *Certain Pasta from Turkey: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 74 FR 26373 (June 2, 2009).

essentially the same as those of the predecessor company.⁴ Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.⁵

After reviewing the information provided in the request for a changed circumstances review, we determined that Neo Solar, DelSolar Taiwan, and DelSolar Wujiang provided sufficient evidence to warrant a review to determine if Neo Solar is the successor-in-interest to DelSolar Taiwan. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. However, we also determined that there is a need to issue a questionnaire to gather additional information, as provided for by 19 CFR 351.221(b)(2), before issuing a preliminary determination in this review. Therefore, the Department is not conducting this review on an expedited basis by publishing the preliminary results in conjunction with this notice of initiation.

The Department will issue the preliminary results of this changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3), which will set forth the factual and legal conclusions upon which the preliminary results are based, and a description of any action proposed because of those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of the review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its AD changed circumstance review within 270 days after the date on which the review is initiated.

⁴ *Id.*

⁵ *Id.*

During the course of this changed circumstances review, we will not change the cash deposit requirements for the merchandise subject to review. The cash deposit will only be altered, if warranted, pursuant to the final results of this review.

This initiation notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

March 18, 2015_
Date

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